



## House Bill 170

### An Act Generally Revising Statutes Governing Various State Retirement Systems in Order to Ensure that those Systems Constitute Qualified Retirement Plans under the Internal Revenue Code

House Bill 170 is a unique general revisions bill that addresses statutory amendments required to ensure the retirement systems administered by the Public Employees' Retirement Board remain tax qualified plans under the Internal Revenue Code. The proposed legislation was reviewed and accepted by the State Administration and Veterans' Affairs Interim Committee.

The retirement systems administered by the Board are tax-qualified retirement systems under 401(a) of the federal Internal Revenue Code. Contributions into tax-qualified retirement systems, and the earnings associated with those contributions, are tax-deferred. If a system is determined by the IRS to not be qualified, the contributions and earnings for that system will be immediately subject to taxation.

The federal government is currently in the middle of Cycle C filing, the process by which the IRS reviews public retirement systems for qualification purposes. The Board submitted its Cycle C filings in October 2008, with the assistance of tax counsel. During this process, tax counsel advised that the changes proposed in this legislation are required to ensure continued compliance with federal law, including the Pension Protection Act of 2006, and a tax qualified status for our plans.

Some of this bill is similar to House Bill 59, the Teachers' Retirement System qualifications bill. As Mr. David Senn stated during the hearing on HB 59, the IRS is no longer satisfied with general statements of compliance. Instead, they are requiring governmental retirement plans to include specific information in statute and to verify in statute that these requirements have been and continue to be met. This is the reason for the many retroactive provisions. We are merely documenting that our plans have always been in compliance with these requirements and have always been qualified 401(a) retirement plans.

The table distributed to the Committee at the start of the hearing provides a section-by-section summary of Board's proposed changes. If the same change is required in multiple retirement systems, those sections are grouped together and addressed as one.

I will highlight some of the changes the Board believes significant. If you have questions regarding any of the other changes, I will be available for questions.

**Bill Sections 1, 12, 19, 23 - Optional Membership Election Windows** As I mentioned last week when testifying against HB 124, the Board has been advised by tax counsel that the IRS may not look favorably on multiple elections or lengthy election windows available to our retirement system members. The Board was advised to limit the elections and to shorten the election window time periods from 180 to 90 days.

The window for police officers currently in PERS actually increases from 30 to 90 days.

Legislators will have 90 rather than 180 days to determine whether to be covered by a retirement system while serving. Legislative employees will have 90 days rather than 300 to determine whether to participate in PERS.

**Bill Sections 5 - Immediate Distribution of DC Account to Alternate Payee** Retirement accounts are marital assets that can be divided when the member and his or her spouse divorce. A Family Law Order, or FLO, is required to award the ex-spouse or alternate payee, a portion of a member's retirement account. Currently, alternate payees do not receive their portion of the member's account until a "distributable event" occurs. Distributable events are the member's termination of employment, retirement, or death.

The Pension Protection Act of 2006 permits alternate payees of **Defined Contribution** plan members to receive their portion of the member's account upon approval of the Family Law Order. The Board believes immediate distribution to be best for the plan and member alike as it will reduce administrative fees and may provide an option other than the sale of the family home in order to fairly divide the marital assets.

**Bill Sections 6, 8, and 9 - Limitations on Maximum Contributions and Benefits and Limitations on Eligible Rollover Distributions** Section 415 of the Internal Revenue Code contains compensation, contribution, and benefit maximums that can not be exceeded in a qualified plan. If an employer participates in more than one qualified plan, the plans must be considered together when testing for these limits. If a member purchases service or rolls over money from other eligible plans, those amounts must be included. Cost of living increases, or GABA, must be considered when testing for benefit limitations. The language in these two sections is essentially for use by tax counsel and actuaries when testing for these limits. As Mr. Senn stated last week, few if any of our members are impacted by these limits. However, we must ensure we are in compliance for qualification purposes.

**Bill Sections 13, 16, 17, and 18 - Option 2**, the 100% joint and survivor annuity is not available to members who name a contingent annuitant who is more than 10 years younger than the member. The actuarial table that must be used in determining the benefit results in a maximum permissible benefit that can be met by option 3 only.

**Bill Sections 13, 16, 17, and 18 -** When a retired member's contingent annuitant dies or the retired member and the contingent annuitant divorce and the contingent annuitant is not awarded any portion of the member's retirement benefit, the member has several options. The member may revert or "pop-up" to his original option 1 or life only

benefit; name a new contingent annuitant and retain the same option, or select a different option and name a new contingent annuitant. These are the only options available under federal law.

**Bill Section 20 and 21.** These sections pertain to the DROP, or Deferred Retirement Option Plan, available to police officers in the Municipal Police Officers' Retirement Plan. Currently, a police officer's DROP account earns interest at the close of each fiscal year based on the system's annual investment earnings for that year. Since the Board received only annual investment earnings reports from the Board of Investments, retiring members received the last rate reported, regardless whether the rate had increased or decreased at the time of retirement. The interest rates earned in the last few years ranged from nearly 17% to 0%. This amendment would change the interest credited to the actuarially assumed rate of return, 8% for all DROP members. They will continue to receive the 3% GABA on their account after participating in DROP for one year.

NEW Section 24. This section was added by House State Admin to correspond with identical language in the TRS bill. This language ensures that retirement system members who become disabled or die while on active military duty receive a death or disability benefit as if they had been active members at the time of death and disability. Portions of this bill are required by federal law, while other parts are optional. The HEART gives public retirement systems until 2012 to adopt this language. Our Board discussed including reference to the HEART language in this bill, but determined to wait until 2011 due to time constraints. We have no objection to this language. Our only caveat is that the Board may, on advice of tax counsel, propose to amend this language in 2011 to completely and accurately provide all possible benefits under the HEART act.

The Board urges a do pass on this bill. I will be available for questions.

# Montana's Public Employees' Retirement Plans: Summary Tables

TABLE 1  
BENEFIT ELIGIBILITY AND BASIC BENEFIT FORMULA

	PERS DEFINED BENEFIT (DB) PLAN (1945)	SHERIFFS' (SRS) (1974)	MUNICIPAL POLICE (MPORS) (1974)	FIREFIGHTERS' UNIFIED (FURS) (1981)	HIGHWAY PATROL (HPORS) (1971)	GAME WARDENS' AND PEACE OFFICERS (GWPORS) (1963)	JUDGES' (JRS) (1967)
Minimum service and age requirements to receive full (unreduced) normal retirement benefit	30 yrs service, any age or 5 yrs svc and age 60 or age 65 regardless of service	20 yrs service, any age	20 yrs service, any age	20 yrs service, any age, or age 50 with 5 yrs service	20 yrs service, any age	20 yrs service and age 50 or age 55 with 5 yrs	5 yrs service and age 60
Minimum service requirement before being vested	5 years	5 years	5 years	5 years	5 years	5 years	5 years
Service retirement benefit formula	$1/56 \times \text{HAC}^1 \times \text{yrs of service}$ (1/56) = 1.78571%)	$2.5\% \times \text{HAC} \times \text{yrs of service}$	$2.5\% \times \text{FAC}^2 \times \text{yrs of service}$	$2.5\% \times \text{FAC} \times \text{yrs of service}$	$2.5\% \times \text{HAC} \times \text{yrs of service}$	$2.5\% \times \text{HAC} \times \text{yrs of service}$	$3.33\% \times \text{HAC} \times \text{yrs of service to 15 yrs} + 1.785\% \times \text{HAC} \times \text{yrs of service over 15 yrs}$ Pre 7/1/97: HAC = current salary
	-with 25 or more years of membership service $1/50 \times \text{HAC} \times \text{yrs of service}$ (1/50 = 2.0%)		Pre-7/1/77: FAC = monthly compensation of last year	Pre-7/1/81 who did not elect GABA: - with less than 20 yrs, greater of: $2.5\% \times \text{FAC} \times \text{yrs}$ or $2\% \times \text{FMC}^3 \times \text{yrs}$ - with more than 20 yrs: $50\% \times \text{FMC}$ plus 2% of FMC for each year over 20			Post 1/7/97 and those who elected GABA: HAC = highest 36 months
Benefit formula is actuarially reduced for early retirement	Yes Actuarially reduced benefit at 25 years service any age or age 50	Yes Actuarially reduced benefit at age 50 with 5 yrs service	No	No	No	No	Yes: Actuarially reduced benefit at any age with 5 yrs service, if involuntarily terminated

Source: Title 19, Montana Code Annotated, 2007

<sup>1</sup> HAC = highest average compensation = average compensation of the 3 highest consecutive years of service.

<sup>2</sup> FAC = final average compensation = average salary over the last 36 consecutive months of service.

<sup>3</sup> FMC = final monthly compensation = monthly salary last received by member.

\* GABA = An automatic annual Guaranteed Annual Benefit Adjustment an annual increase in a recipient's monthly benefit amount.

# DISABILITY BENEFITS

	PERS DEFINED BENEFIT PLAN	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS' (GWPORS)	JUDGES' (JRS)
Eligibility criteria for disability benefit	- at least 5 yrs of service - totally unable to perform essential tasks of covered position - permanent or of uncertain duration	same as in PERS DB plan	same as in PERS DB plan	same as in PERS DB plan	same as in PERS DB plan	same as in PERS DB plan	same as in PERS DB plan
Non-duty-related disability benefit	Pre-2/24/91: greater of 90% of normal (1.786%) formula, or 25% of HAC Post-2/24/91 or election: normal retirement formula (based on age 60, no actuarial reduction)	Actuarial equivalent of normal (2.5%) retirement formula	Pre-7/1/77: Normal (2.5%) retirement formula, but minimum of 50% of FMC Post-7/1/77: 50% FAC for 20 yrs or less and 2.5% FAC for each year over 20	50% FAC for 20 yrs or less and 2.5% FAC for each year over 20	Actuarial equivalent of normal (2.5%) retirement formula	Actuarial equivalent of normal (2.0%) retirement formula	Actuarial equivalent of normal retirement formula (3.33% for first 15 yrs service and 1.785% after 15 years)
Duty-related disability benefit	Same as non-duty related	50% of HAC	Same as non-duty-related	Same as non-duty-related	50% of HAC	50% of HAC with at least 5 yrs of service	Non-GABA: 50% of current salary of sitting judge With GABA: 50% of HAC
Actuarial cost to plan (reported in June 30, 2008, actuarial valuation)	0.31%	0.76%	1.80%	2.03%	0.78%	0.72%	0.63%

TABLE 3

**RETIREE AND BENEFIT RECIPIENT DATA**  
(Based on June 30, 2008, Actuarial Valuations and MPERA data)

	PERS DEFINED BENEFIT (DB) PLAN	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS' (GWORS)	JUDGES' (JRS)
Number of benefit recipients	16,627	394	636	535	290	120	50
Average age of current retirees	72 yrs	62 yrs	66 yrs	67 yrs	68 yrs	68 yrs	80 yrs
Average retirement age	59 yrs	52 yrs	47 yrs	50 yrs	49 yrs	55 yrs	66 yrs
Average years of service at retirement	19.34 yrs	18.76 yrs	19.33 yrs	23.61 yrs	23.83 yrs	23.23 yrs	15.33 yrs
Average monthly benefit (service retirement)	\$975	\$1,756	\$2,079	\$2,387	\$2,109	\$1,760	\$3,440
Post-retirement benefit adjustments	3.0% GABA* (after 1 year) if hired before 7/1/07 1.5% GABA if hired on or after 7/1/07	3.0% GABA (after 1 year) if hired before 7/1/07 1.5% GABA if hired on or after 7/1/07	Pre-7/1/97 who did not elect GABA: ½ monthly salary of new officer All post- 7/1/97 or who elected GABA: 3.0% (after 1 year)	Pre-7/1/97 who did not elect GABA: ½ monthly salary of new firefighter All post- 7/1/97 or who elected GABA: 3.0% (after 1 year)	Pre-7/1/97 who did not elect GABA: 2% of base salary of probationary officer All post- 7/1/97 or who elected GABA: 3.0% (after 1 year)	3.0% (after 1 year) if hired before 7/1/07 1.5% GABA if hired on or after 7/1/07	Pre-7/1/97: benefits increased same as salary of sitting judge All post-7/1/97 or who elected GABA: 3.0% GABA (after 1 year)
Social security coverage	Yes	Yes	No	No	No	Yes	Yes

\* GABA = An automatic annual Guaranteed Annual Benefit Adjustment an annual increase in a recipient's monthly benefit amount.

TABLE 4

**ACTIVE MEMBERSHIP DATA****(NOT including retirees and other benefit recipients)**

(Based on June 30, 2008, Actuarial Valuations)

	PERS DEFINED BENEFIT (DB) PLAN	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS' (GWPORS)	JUDGES' (JRS)
Total active members	28,293	1,109	673	525	212	885	51
Average age of actives	48.4 yrs	40.2 yrs	38.5 yrs	39.0 yrs	39.7 yrs	40.4 yrs	57.2 yrs
Average years of service of actives	9.9 yrs	6.5 yrs	8.9 yrs	10.3 yrs	9.6 yrs	5.7 yrs	11.6 yrs
Average annual salary of actives	\$35,143	\$42,626	\$47,449	\$51,150	\$50,505	\$37,410	\$99,917
Number of participating employers	528	57	27	19	1	7	1
Employers' annualized payroll (2008 Valuation)	\$994.3 million	\$47.3 million	\$32.9 million	\$27.7 million	\$11.0 million	\$34.2 million	\$5.2 million

TABLE 5

**CONTRIBUTIONS, COSTS, AND ACTUARIAL DATA**

(Based on June 30, 2008, Actuarial Valuations)

	PERS DEFINED BENEFIT (DB) PLAN	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS' (GWPORS)	JUDGES' (JRS)
Employer contribution as percentage of payroll	7.035% (1) School Districts: 6.8% State: 0.235% Local Government Employers: 6.935% State: 0.1%	9.825% (2)	14.41%	14.36%	26.15%	9.0%	25.81%
Employee contribution as percentage of salary	6.9%	9.245%	Non-GABA: Pre-7/1/75: 5.8% Pre-7/1/79: 7.0% Pre-7/1/97: 8.5% With GABA: 9%	Pre-7/1/97 not electing GABA: 9.5% Post-7/1/97 or electing GABA: 10.7%	Pre-7/1/97 not electing GABA: 9.0% Post-7/1/97 or electing GABA: 9.05%	10.56%	7%
Additional funding from other sources as a percentage of payroll	None	None	State General Fund: 29.37%	State General Fund: 32.61%	Driver's license fees: 10.18%	None	None
Total available contributions as percentage of payroll	13.935% (.04% transferred to education fund)	19.07%	52.78%	57.66%	45.38%	19.56%	32.81%
Normal costs as percentage of payroll	12.13%	19.24%	26.65%	26.15%	22.25%	18.54%	25.12%
Percentage used to fund unfunded liabilities	1.765%	0	26.13%	31.51%	23.13%	1.02%	7.69%

(1) - On July 1, 2009, this will increase to 7.17%, the state share for school districts will increase to .37%, and the local government contribution will increase to 7.07%.

(2) - On July 1, 2009, this will increase to 10.115%.

	PERS DEFINED BENEFIT (DB) PLAN	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS' (GWPORS)	JUDGES' (JRS)
Actuarial liabilities (rounded)	\$4.5 billion	\$205 million	\$328 million	\$287 million	\$135 million	\$83 million	\$39 million
Actuarial Value Funded ratio (rounded) (percentage of liabilities covered by reported assets)	91%	98%	65%	72%	75%	93%	157%
Unfunded liability (surplus) (rounded)	\$439 million	\$5.1 million	\$115 million	\$81 million	\$33 million	\$5.9 million	(\$23 million)
Years to amortize unfunded liability	24.9 yrs	16.3 yrs	18.6 yrs	11.3 yrs	17.4 yrs	13.0 yrs	0 (surplus)
Market value of assets (rounded)	\$3.9 billion	\$189 million	\$200 million	\$195 million	\$95 million	\$73 million	\$59 million
Market Value Funded ratio (rounded) (percentage of liabilities covered by reported assets)	85%	92%	61%	68%	71%	88%	149%

Sources: June 30, 2008, Actuarial Valuations

TABLE 6  
INVESTMENT DATA

\* Investment objective: Meet or beat the actuarial return assumption of 8%, while outperforming the market indices for each asset class over any current 5-year period.

	PERS DEFINED BENEFIT RETIREMENT PLAN (DBRP)	SHERIFFS' (SRS)	MUNICIPAL POLICE (MPORS)	FIREFIGHTERS' UNIFIED (FURS)	HIGHWAY PATROL (HPORS)	GAME WARDENS' AND PEACE OFFICERS (GWPORS)	JUDGES' (JRS)
Amount invested, rounded (market value, on 6/30/2008)	\$3.9 billion	\$188.6 million	\$191.1 million	\$185.2 million	\$96.2 million	\$73.3 million	\$58.8 million
Market rate of return for composite index, FY 2008	-5.61%	-5.56%	-5.75%	-5.66%	-5.58%	-5.51%	-5.58%
Market rate of return on the fund in 2008, all assets	-4.86%	-4.84%	-5.01%	-4.91%	-4.86%	-4.80%	-4.85%
Market rate of return for composite index, 5-year period	7.90%	7.82%	7.68%	7.72%	7.86%	7.72%	7.81%
Rate of return on the fund, 5-year period	8.47%	8.39%	8.26%	8.29%	8.44%	8.28%	8.39%
Objective relative to actuarial investment assumption met in FY 2008?	No	No	No	No	No	No	No
Objective relative to actuarial investment assumption met in 5-year period?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Asset allocation objectives: Fixed Income Real Estate Equity	22 - 32% 0 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%	25 - 35% 4 - 8% 60 - 70%
Actual Asset allocation: Fixed Income Real Estate Equity	25.7% 4.5% 67.7%	26.6% 4.3% 67.2%	26.9% 4.3% 68.7%	26.8% 4.3% 68.0%	26.7% 4.3% 67.9%	26.3% 4.3% 66.8%	26.6% 4.3% 67.3%
Percentage growth in total liabilities between 2007 valuation and 2008 valuation	7.2%	8.2%	5.5%	6.6%	5.0%	14.3%	7.0%
Percentage change in total assets between 2007 valuation and 2008 valuation	-6.1%	-4.1%	-5.1%	-3.0%	-6.3%	-0.1%	-5.1%

Sources: Public Employees' Retirement Board, Financial and Actuarial Reports, and Title 19, MontanaCode Annotated, 2007, FY2008 Montana Board of Investments Information.

TABLE 7

**VOLUNTEER FIREFIGHTERS' COMPENSATION ACT**  
(Based on June 30, 2008, Actuarial Valuation)

PENSION PLAN FEATURES	VOLUNTEER FIREFIGHTERS' PENSION FUND (1965)
Minimum service and age for normal (unreduced) retirement	Age 55 and 20 years of service; or Age 60 and 10 years of service
Vested	10 years
Basic benefit formula	\$7.50 per year of service, up to maximum of \$225 per month
Disability	\$7.50 per year of service, with a minimum of \$75 per month up to a maximum of \$225 per month
Death benefit	\$7.50 per year of service (maximum of 40 months including any amounts retiree received)
Membership	1,082 retirees and beneficiaries 2,301 active members <u>793 vested inactive (terminated) members</u>  4,176 total members
Average age of active members	44.6 years old
Average years of service of active members	9.2 years
Average benefit for service retirees	\$135 per month
Contributions	5% of insurance premium taxes collected (See Section 19-17-301, MCA)
Actuarial liabilities	\$32.7 million
Actuarial value of assets	\$27.5 million
Unfunded liability	\$5.2 million
Years to Amortize	5 yrs
Funded ratio	84%

TABLE 8

**PERS DEFINED CONTRIBUTION RETIREMENT PLAN (DCRP)**

Operational July 1, 2002.

Membership	All active PERS members will have 12 months to make a one-time, irrevocable choice between the DBRP and DCRP plans.
Employee Contributions	6.9% of salary
Employer Contributions	7.035%* of salary allocated as follows: -- 0.04% to an educational fund -- 2.37% to PERS DB plan as plan choice rate -- 4.19% to member accounts -- 0.3% to disability trust fund -- 0.135% to PERS DB plan to reduce the plan choice rate unfunded actuarial liability, or to the long-term disability plan trust fund once the PCR UAL is retired (increasing to 0.27% on July 1, 2009)
Total contributions to member accounts	11.09% of salary
Investment choices	15 funds
Vesting	5 years for employer contributions and investment earnings on those contributions, but members have immediate control over how employer and employee contributions are invested
Benefits	Contributions plus investment earnings, minus administrative expenses; payable at any time after termination, with a possible federal tax penalty for withdrawal before age 59 1/2.
Disability benefit	A defined disability benefit based on a $1/56 \times \text{HAC} \times \text{years of service}$ formula, similar to what is provided in the PERS DBRP.
Death/survivorship benefit	Member's account balance
Plan administration	- PERB is the plan's board of trustees - Great West is the plan's record keeper

\*On July 1, 2009, this will increase to 7.17%

# **Montana Public Employees' Retirement Board** **Table Summarizing HB 170 - the Board's IRS Tax Qualification Legislation**

<b>Bill Section and Current MCA Section</b>	<b>IRC/Federal Requirements Reference</b>	<b>Proposed Change</b>	<b>Reason</b>
			<p><b>*Plan Compliance</b> means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p><b>Notes</b></p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p>
Bill Section 1  5-2-304(4)	Revenue Ruling 2006-43  IRC 414(h)	Shorten window from 180 to 90 days for legislators to elect whether to continue participation in their current public employee retirement system.	<p><b>*Plan Compliance</b></p> <p>The IRS discourages multiple and lengthy election windows. MPERA proposes a 90 day window for all elections</p>
Bill Section 2  19-2-303	IRC 401(a)(31)(A), 401(c)(8), 402(f)(1), 402(f)(2)(A)  IRC 402 CFR 1.401(a)(31)-1	Defining terms used in Title 19, Chapter 2, Part 10 and in our Special Tax Notices. Terms are "direct rollover", "distribute", "eligible rollover distribution", and "eligible retirement plan"	<p><b>*Plan Compliance</b></p> <p>These terms are used in legal documents provided to members and should be clarified for both our members and staff in order to ensure proper usage.</p>
Bill Section 3  19-2-602(4)	IRC 408A(d), 408A(e)	Use of the term "eligible rollover distribution" rather than listing out various distribution options  "Eligible rollover distribution" includes Roth IRA options.	<p><b>*Plan Compliance</b></p> <p>*Roth IRAs were added to the distribution options in 2007. The preferred term "eligible rollover distribution" includes Roth IRAs. This subsection should either (1) reference the definition of "eligible rollover distribution" in 19-2-303; or (2) include Roth IRAs. Otherwise, removal of the term 'Roth IRA' from this section could mislead the reader into believing distribution to a Roth IRA is no longer an option.</p>

Bill Section and Current MCA Section	IRC/Federal Requirements Reference	Proposed Change	Reason
			<p>*Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p><b>Notes</b></p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p>
Bill Section 4 19-2-902(2)	IRC 411(1)(A)	Vested member with actuarial present value of benefits equal to or less than \$5,000; default was lump sum payment; congress has changed default to a monthly benefit option.	<p>*Plan Compliance</p> <p>We have always required member's to request lump sum, otherwise a monthly benefit is paid. We have been and remain in compliance. Statute reworded to reflect change.</p>
Bill Section 5 19-2-907(2)	IRC 414(p) IRC 401(a)(13)(B)	Reference Section 414(p) IRC  This section of federal law addresses Qualified Domestic Relations Orders (QDROs)	<p>*Plan Compliance; reference applicable IRC section</p> <p>Specific documentation that Family Law Orders (FLOs) are required to comply with IRC Qualified Domestic Relations Order (QDRO) laws.</p>
Bill Section 5 19-2-907(4) and (6)	IRC 414(p) IRC 401(a)(13)(B)	Distribute alternate payee's share of a Defined Contribution member's account immediately upon approval of Family Law Order (FLO)	<p>Option offered in the Pension Protection Act of 2006 -</p> <p>Board determined to adopt this option for its plan participants with Family Law Orders (FLOs). Immediate release reduces administrative costs and gives alternate payee immediate access to their portion of the member's account. This option is already available in the 457(b) plan and works well.</p>

Bill Section and Current MCA Section	IRC/Federal Requirements Reference	Proposed Change	Reason
Bill Section 6	IRC 415(n)		<p><b>*Plan Compliance</b> means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p><b>Notes</b></p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p> <p><b>*Plan Compliance</b></p> <p>*1) Plans are treated as one for purposes of determining compliance with contribution and benefit limits contained in IRC 415.</p> <p>2) Permissive service requirements have changed several times in the last few years. Tax counsel would like to document that we have been in compliance back to 1997, the first time the IRS ruled on the issue.</p> <p>3) The definition of "salary" for testing of IRC 415 limits has been expounded upon by the IRS. Proposed new language will capture those changes.</p> <p>4) Federal law requires that COLA [GABA] increases be taken into consideration when testing for IRC 415 benefit limits.</p>
19-2-1001		<p>1) Recognize that if employer has more than 1 DB or more than 1 DC plan, the plans are treated as a single DB and a single DC plan, with Title 19 plans given priority over non-Title 19 plans and the Title 19 plan with the highest given priority among other Title 19 plans.</p> <p>2) Retroactive recognition of permissive service purchases and requiring compliance with 415 limits</p> <p>3) Amend definition of "salary" to comply with various federal laws</p> <p>4) Amend law to comply with benefit limitations as those limits are impacted by COLAs.</p>	

Bill Section and Current MCA Section	IRC/Federal Requirements Reference	Proposed Change	Reason
			<p><b>Reason</b></p> <p>*Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p><b>Notes</b></p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p>
Bill Section 7	Exclusive Benefit Rule	Additional 100% vested and exclusive benefit language	*Plan Compliance
19-2-1002	Mont Const Art VIII, section 15		<p>*Proposed language is consistent with existing statutes and constitutional provisions. Tax counsel believes it needs to be added to our IRC compliance section (Title 19, Chapter 2, and Part 10).</p>
Bill Section 8	IRC 401(a)(9)	Including COLAs [GABA] in compensation limits per IRC	*Plan Compliance
19-2-1005			Same as 19-2-1002, MCA.
Bill Section 9	IRC 415	This is new language required by the IRS to ensure we do not allow members to rollover account distributions that are not eligible to be rolled over.	<p>Rollovers are used to delay taxation of retirement benefits. The IRS has a significant interest in ensuring they receive taxes on retirement monies at the appropriate times.</p>
New section on Eligible Rollover Distribution limits			
Bill Section 10	29 USC section 623(i)(10)(B)(i) of the federal Age Discrimination in Employment Act (ADEA)	Federal law requires that credited interest be limited in a manner that will not violate the ADEA	*Plan Compliance
New section on interest rate crediting	IRC 411(b)		Interest rates can not benefit a certain age group
Bill Section 11		Update IRC citation	Accuracy
19-3-315(3)			

<b>Bill Section and Current MCA Section</b>	<b>IRC/Federal Requirements Reference</b>	<b>Proposed Change</b>	<b>Reason</b>
Bill Section 12 19-3-412	Revenue Ruling 2006-43	Optional Membership Election Periods Reduced to 90 days  Elections are irrevocable	*Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law  <b>Notes</b> *MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.  *Plan Compliance with Pick-up Rulings  *This is a significant change to current statute recommended by tax counsel. The IRS appears to be strictly limiting retirement systems elections and shortening the election window to ensure a defined benefit retirement system member receives a "defined" benefit.
Bill Sections 13, 16, 17 & 18  19-3-1501, 19-5-701, 19-7-1001 & 19-8-801	IRC 401(a)(9)  Treasury Reg 1.401(a)(9)-6	Amend language in (1)(a)  Limit the options available to members who choose a contingent annuitant significantly younger than themselves.	*Plan Compliance  100% joint and survivor is not available to a member whose non-spouse beneficiary has a greater than 10 year adjusted age difference
Bill Sections 13, 16, 17, & 18  19-3-1501, 19- 5-701, 19-7- 1001 & 19-8- 801	IRC 401(a)(9)  Treasury Reg 1.401(a)(9)-6	Amend language in (5) and (6)  Clarify that pop-up is available if member and contingent annuitant divorce or if contingent annuitant dies; clarify pop-up options	Plan Compliance and consistency between retirement systems  Currently systems are not consistent with respect to pop-up options; federal law limits the options that are available when a retiree's contingent annuitant dies or the member and contingent annuitant divorce.
Bill Section 14  19-3-2123	IRC 408A(d) and (e)	Delete terms that duplicate definition of "eligible retirement plan"	*Plan Compliance  Roth IRAs are eligible retirement plans now
Bill Section 15  19-3-2126	IRC 401(a)(31)(B)	Recognize refund limit of \$1000 and need to comply with 401(a)(31)(B)	*Plan Compliance and Consistency with Defined Benefit Retirement Plan

<b>Bill Section and Current MCA Section</b>	<b>IRC/Federal Requirements Reference</b>	<b>Proposed Change</b>	<b>Reason</b>
			<p><b>Notes</b></p> <p>*Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p>
Bill Section 19  19-9-301	Revenue Ruling 2006-43	Increase window from 30 to 90 days for employees of new MPORS employers to elect whether to join MPORS or stay in PERS.	<p>*Plan Compliance, consistency and education</p> <p>MPERA proposes a 90 day window for all elections. More time is needed to educate employees of differences between PERS &amp; MPORS</p>
Bill Sections 20 and 21  19-9-1206 and 19-9-1208		Amend language to permit proportionate interest for distributions taking place at other than fiscal year end	<p>Board of Investments has agreed to provide interest rates more frequently than annually</p> <p>Change will permit MPERA to credit interest that better reflects that being earned at the time of the distribution</p>
Bill Section 22  19-13-210	Compliance with state law processes	Amend language to clarify that city's adopt by ordinance while rural fire districts adopt by resolution	Ensure Correct Process for Joining Firefighters Unified Retirement System
Bill Section 23  19-13-301(3)	Revenue Ruling 2006-43	Shorten window from 6 months to 90 days for part-paid firefighters to elect whether to become a member of MPORS	<p>*Plan Compliance</p> <p>The IRS is discouraging multiple and lengthy election windows. MPERA proposes a 90 day window for all elections</p>
Bill Section 23  19-13-301(7)	Revenue Ruling 2006-43	Amend language in (7)(b) Increase window from 30 to 90 days for employees of new MPORS employers to elect whether to join MPORS or stay in PERS.	<p>*Plan Compliance</p> <p>MPERA proposes a 90 day window for all elections. More time is needed to educate employees of differences between PERS &amp; FURS</p>

Bill Section and Current MCA Section	IRC/Federal Requirements Reference	Proposed Change	Reason  <b>Notes</b>
Bill Section 23  19-13-301(7)	Revenue Ruling 2006-43	Amend language in (7)(b)  Increase window from 30 to 90 days for employees of new MPORS employers to elect whether to join MPORS or stay in PERS.	<p>*Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law</p> <p>*MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.</p> <p><b>*Plan Compliance</b></p> <p>MPERA proposes a 90 day window for all elections. More time is needed to educate employees of differences between PERS &amp; FURS</p>